

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21002 of 2025

Arising Out of PS. Case No.-318 Year-2024 Thana- PIPRA District- Supaul

Dilkhush Kumar S/O Chandra Kishore Yadav R/O Vill.- Navtolia, Ward no. 03, P.S.- Bharrahi, Dist.- Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Krishna Prasad Singh, Sr. Advocate
Mr.Vijay Kishore Bharti, Advocate
For the Opposite Party/s : Mr.Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 14-10-2025 Heard Mr. Krishna Prasad Singh, learned senior counsel appearing on behalf of the petitioner and Mr. Arvind Kumar, learned counsel for the State.

2. The petitioner seeks bail in connection with N.D.P.S. Case No. 95 of 2024 arising out of Pipra P.S. Case no. 318 of 2024 registered for the offence under Sections 21(c)/25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the “NDPS Act”).

3. The petitioner is named in the F.I.R. and is in custody since 15.10.2024.

4. As per FIR, petitioner was found in possession of 115 litres of Cough Syrup, where one of the constituent was “Codeine”, which is in the prohibited list of drugs as per NDPS



Act, 1985.

5. It is submitted by Mr. Krishna Prasad Singh, learned senior counsel appearing on behalf of the petitioner that alleged cough syrup was manufactured by reputed company where the composition of "Codeine" was as per its approved standard.

6. It is submitted by Mr. Singh that the recovery was made from a car which was occupied by other co-accused persons, who ran away and, therefore, it can be said safely that recovery of alleged cough syrup was not made from conscious physical possession of this petitioner. It is also submitted that compliance of sealing, search and sampling (sss) also appears not followed in its true spirit as per provisioned under the NDPS Act, 1985.

7. Arguing further, Mr. Singh submitted that the charge-sheet in this matter was submitted without FSL report and same was only to defeat the legal right of default bail to the petitioner in view of Section 167(2) of Cr.P.C/187(2) of B.N.S.S.

8. In support of his submission learned senior counsel relied upon the legal report of Hon'ble Supreme Court as



available through **Divyas Bardewa vs. Narcotics Control Board** reported in **2023 SCC OnLine SC 742**, wherein the matter for consideration of incomplete charge-sheet is pending before the Hon'ble Supreme Court for larger consideration. It is submitted that in view of same, the petitioner deserves bail.

9. Taking note of earlier submission, a report was called for from the learned trial court, which made available to this Court vide letter no. 116/2025 dated 20.09.2025, which speaks that still FSL report was not made available to this Court and, therefore, charge could not framed, however, cognizance in this matter was taken on 25.04.2025.

10. Learned APP while opposing the prayer of bail could not disputed the aforesaid factual and legal submission.

11. In view of aforesaid factual and legal submission and by taking note of fact as in the present case incomplete charge-sheet was submitted against petitioner without obtaining FSL report without ascertaining the fact whether seized cough syrup containing any prohibited substance like "Codeine" as alleged or not, accordingly, in view of ***Divyas Bardewa case (supra)***, coupled with the fact that petitioner remains in custody since 15.10.2024, petitioner above named, is directed



to be released on bail on furnishing bail bond of Rs. 25,000/-
(Rupees Twenty Five Thousand) with two sureties of the like
amount each to the satisfaction of learned Sessions Judge,
Supaul/concerned court, in connection with N.D.P.S. Case No.
95 of 2024 arising out of Pipra P.S. Case no. 318 of 2024,
subject to the conditions as mentioned under Section 437(3) of
the Cr.P.C/ Section 480(3) of B.N.S.S.

(Chandra Shekhar Jha, J)

Rajeev/-

U		T	
---	--	---	--

